683 elkepusi olle enet ilo-arin nare, ane ilo ewo ashai el-loghoreye e-lido ilmorishi.

Too tor el-Maasai likae-Maasai,ntji,'Eitaye'l-olkop'; ntji, 'Eiserishe.' Ntji el-ilmorishe nae el-ilmare'l-nanik.

●683 Kaa, too tor el-morani el-likae, pe ehidg ee-gish, oolabaaye lido ilmidoligo el-likae e-mepus e-kare. Kaa, too tor el-likae, nagil el-olio, e el-le'le-gejo, e el-le'leg-aina, e el-le'l-loghoreye, oolabaaye ee-dareee.

683 Kaa, too tori el-eyioni nerine, nolabi enee el-morani, kake elabori'l-bolgolio enere.

If a warrior stellow another and leave the kibe of his ear, he has to pay a young ewe. If he breaks a bone, either in his leg, arm, or head, he has to pay a heifer.

If a boy is murdered, the amount which has to be paid is not as great as for a warrior, the price being fifty young lambs.

Ee-gisipa.

684 [K1] Matii el-morani aroki el-eyioni aidin nolabiiare ee-gitok o'l-pureee le-mooiya. Too elpiliuni, nolabi.

Ore too nabi, nolabaaye 'e-gitok ere, ee-o'le-nidio, eeeregiye 'l-pulyani pe nolab. ⊙ el-kitalig-tipalig il-pulyani too tob ee-nidio.

684 [K1] Kake nolabini otje too ebolisre 'e-gitok aroki 'e-dolye o'l-pureee keepo. We kereee inne.

Adultery.

If a warrior or boy may commit adultery with a woman of his father's age. If he does so, and it becomes known, he is cursed.

Should he be cursed, he pays two cows (one in lieu of honey-wine), and he pays the elders to remove the curse. The elders eat the ox when they drink their honey-wine.

But this is not the case if a man commits adultery or fornication with a woman or girl of his own age. This is not an offence*.

* This law is not always put into force. The murdered man's relatives are often willing to make peace on payment of a heavy fine, say one head of cattle.

[696] * From this it will be seen that the Masai are polygamous as well as polyandrous. A man may marry as many wives as he can afford to purchase, and a woman may cohabit with any man belonging to her husband's age.

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remain before the gates, every ox, cow and calf of the murderer is forfeit.

(*d*) If the deceased has very few relatives, they sometimes try to surprise the murderer's cattle when out grazing. They hastily run them to their own kraal and brand one or two with their own brand.[1] If they succeed in branding a few before the relatives of the murderer arrive, the latter may only remove the bell-oxen and herd-leaders. All the remainder are forfeit.

Until the matter of the murder has been settled in any of the above ways, or by the killing of the murderer without trial, no man from the murderer's kraal may be married to a girl from the kraal of the deceased and vice versa. This applies to all Masai, irrespective of class or families. Donkeys, sheep and goats are never included in the property forfeited except by mutual agreement.

Exogamy; Parricide or Fratricide

If a son kills his father, or a brother his brother, he forfeits all rights to inheritance. The property goes to his brothers, their wives or (if he is an only son) to his uncles. If married, he forfeits his wife and children. If unmarried, he will never be given a Masai woman to wed. He is generally hunted from his kraal, and with his mother (to whom the blame for his crime also attaches) becomes an outcast.

Murder by unusual means—such as poisoning—is a very rare offence. The penalty would be the same as in murder by any ordinary method. Should the poisoned individual recover, the penalty would be the same as in the case of a serious injury. In some of the very few cases of murder by poisoning that have occurred in the past the culprit has been executed by the Masai.

Homicide is dealt with according to the gravity of the matter, the degree of provocation caused and the element of chance or accident existing. It is generally settled by the payment of twenty cattle and nine cattle, or forty cattle and nine cattle.

[1] For a comprehensive illustrated list of Masai cattle brands, see *Die Masai* by M. Merker. (Berlin, 1910. Dietrich Reimer.)

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E'-TOOSHO: ASSAULT

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Resulting in the loss of an eye—no penalty.

Resulting in the tearing of an ear-lobe—a fine of one ewe.

Resulting in the loss or breaking of a tooth—a fine of one ewe.

Resulting in the breaking of a bone—an ox of the offender's (he may not have been the aggressor originally) is slaughtered then and there, and all partake of it. The injured man must not see the skin of the slaughtered ox. At the same time, a fine of one heifer is inflicted, but if the injured man should die before this has been handed over, twenty and nine cattle may have to be paid subsequently by his slayer.[1]

[682]

To strike a man with an arrow, a club, spear, sword, or knife would result in the imposition of a fine of one fat sheep or one ox, according to the extent of the cuts or other injuries inflicted.

The preceding penalties refer to Masai only. If the murdered man be a Bantu or savage (*Ol-mooh*), and if he was known to [691] and a friend of the Masai, twenty and nine cattle must be paid to his relatives. In the case of the murder of or assault on a [689] [692] stranger, no penalty is laid down.

The reiteration of the number nine in the fines prescribed may be explained as follows. A certain round number of cattle is settled upon as fine or compensation. To this number (generally twenty or forty) must be added nine more for the body of the murdered man, in order to wipe out the stain of blood which lies between the rival parties. These nine cattle are accounted for according to the orifices of the human body, thus two for the ears; two for the eyes; two for the nose; one for the mouth; one for the urethra and one for the anus.

N'YANGE: THEFT

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Theft of any kind is almost unknown among the Masai, but if one Masai should steal cattle from another, the thief must pay five beasts for each beast stolen, the sex of the animals paid depending on the sex of the stolen beasts. If sheep are

[1] See Hollis, *The Masai*, p. 302.

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E-TAREMU EN-GIDO: ABORTION

Abortion is rare.[1] Should a woman cause herself to abort, the matter is left to the women of the kraal, who generally beat the culprit. 693

If a woman is made to abort by her husband or by another man, the matter is again left to the women. They may beat the culprit, but the more usual procedure is for them to take an ox of the abortionist's to some quiet place and beat it to death with sticks. The women then eat this ox, but no men or no pregnant women may be present while they are doing so.[2]

IL-DEKETA: CURSES

If a warrior should curse an Elder, he must offer him a cow, a calf and a bottle of honey. If he does not do this, he will die.[3] 693

If one warrior is cursed by another, he may try to kill him. If he succeeds in doing so, he is liable to no penalty. On the other hand, he may bring the matter before the Council of Elders, who will fine the guilty party. [693]

IL-NUMA LOO'L-MAASAI: MASAI ORDEALS

Eng-doo: *The Bow*[4]

A strung bow is laid on the ground and the deponent swears in front of the Elders that his words are true. He then steps over the bow. Should his words be true, no harm will come to him, but should he be telling a lie, he will have bad luck and may shortly die. 695 [695]

[1] During three and a half years spent with the Masai of Tanganyika Territory, I came across only one case of abortion. In this, the husband had caused his wife to abort, as he was jealous of the father of the child. This man was a warrior of the same age as that to which the husband belonged.

[2] The converse of the custom whereby no women may see meat for the warriors' consumption before it has been cooked.

[3] For examples of Masai curses, see Hollis, *The Masai*, p. xxx.

[4] *Eng-doo* is no longer regarded very seriously by the younger generation of Masai, and is falling into disuse in consequence. The other ordeals, particularly *Eng-dati*, are still regarded with awe, and I think it would be difficult to find a Masai living with the Tribe who would be prepared to testify falsely under ordeal.

[Warrior Ritual]

/#1 cont./

fighting. Large log bells (el dwellen bitwa), the tickling of which in the latter instance serves to prevent a going astray by the individual warriors and a scattering of the troops. Where the bell sounds is a rallying point.

A special position is also occupied by the *I ghwiniai* a benefactor. They are warriors who, themselves possessed, also have a possessed, well-to-do father. From him they often receive cows for slaughtering and then distribute the meat among their comrades and all strangers, without distinction as to age and sex. If such a benefactor is wounded in battle or if he suffers an injury elsewhere on the march or at home, the others are concerned about him and compete with one another to help him to the best of their ability.

Accordingly, rulerliness is sharply condemned, and a unlucky warrior or one who has unlucky persons is treated badly and, in case of illness or wounding on the way, is not infrequently left to his helpless.

Speaker and leader live like other warriors and are not surrounded by any special ceremonial. Off duty they are treated with respect, which is shown especially by the fact that people avoid coming too close to their girls or lightly existing an excuse for a consul with them. Among the other warriors these two things almost daily lead to serious disputes and often enough to duelling, in which the opponents go after each other with sword and club, but only very rarely wound each other seriously. If this should happen sometimes, in a few districts the wounded one receives from the victor a fine consisting of livestock; in other districts, only if a loss is brought. In general immediately after the duel /#2/ sometimes only after the healing of the wound, reconciliation follows, the formality of which consists of the mutual exchange of model things and sometimes also the exchange of the skin caps (a wagiik). The matter becomes more serious if one is killed in a duel. Then the father of the victor is then condemned to pay a larger number of cattle. If he hands them over, the affair is settled. If he refuses them, however, the friends of the one killed attack his kraal and rob him of his entire herd. But they have scarcely brought them home before the friends of the one robbed also try to rescue them again. This goes on until they have become tired

/511 cont./

only very rarely used. In these cases the perpetrator, as punishment for the killing or the murder of a man, loses all his property: his livestock, his wives and children pass over to the heir of the deceased. For killing a woman who has not yet given birth to a child, only half of the livestock of the perpetrator will be given to the widower. For the killing of a woman who has children, the perpetrator pays her husband 10 head of cattle and 10 goats or sheep. In this case distinguished as to whether the woman killed had a son or a daughter: if the former case the fine is greater than in the latter one.

Bodily injury with a fatal result is regarded as the same as murder, as is one that results in the loss of a leg. A person who cuts off another's arm (in some districts this applies only to the right arm) or makes it useless pays the injured one a few head of cattle and later, in case the crippled one is killed in battle, also the fine customary as atonement for murder. It is assumed in this case that the cripple was killed only as a consequence of his inability to fight. Serious injury to the head is atoned for with the payment of a cow, an ox, and a sheep, among others only with the payment of a cow; the fracture of an arm or leg, with the payment of one or two head of cattle. Likewise the fracture or loss of a finger, with /512/ the exception of the two index fingers (or magician or ol amberoot), which, as magic fingers, are "dangerous and evil." The destruction of an eye remains unpunished. One who tears off another's ear also pays him a goat or a sheep for it.

One who acts as an accomplice to a crime against life and health is punished in the same way as the perpetrator.

Rape, abortion, unnatural lewdness, which is said to occur at midwary (5).

1. Cf. the remarkably frequent prohibition in first ten. /Exodus/ 20; 14; 3rd ten. /Leviticus/ 5+, 15; 3rd ten. /Leviticus/ 14, 20; 5th ten. /Deuteronomy/ 5+, 21.

are not punished.

/121 cont./

There is no special punishment for cowardice in war. The warrior, however, owns the coward in front of the girls and make him ridiculous in their eyes. One who make anyone ill through sorcery pays a head of cattle to the one bewitched. If the latter dies, the sorcerer must pay the fine levied for murder and is himself driven away.

The death penalty is carried out in that a band of armed men attack the delinquent slayer and kill him with spears. For a war /121/ victim the execution is carried out by warriors, for an enemy, by those injured by him. Fines are usually paid to bereavers. In general their concern is not front for the individual offenses. In the one area this, in the other that is regarded as the norm. Diminished ability to pay because of previous livestock sickness or unsuccessful wars naturally lowers the fine. Moreover, if in the division the fellow members of the lineage or tribe of the perpetrator have a preponderance in numbers or power over those of the injured one, the fines are considerably smaller than in the opposite case: then murder is often punished as negligent homicide, or even a fine even left entirely unpunished, just like other crimes or misdemeanors. Irresponsibility is regarded as mitigating in some districts, in others not. An attempt is not punished. Self-defense is not mitigating. A degrading punishment exists only for the exercise and cowards of cutting off the guilty man's hair-roll/fan, as is well known, one of the insignia of his standing. This punishment is said to be inflicted most frequently for rape committed on a married woman, law also also as additional punishment for theft. Common accused persons are compensated with a goat or a sheep. The mentally ill occupy an exceptional position in the legal world only insofar as they are unable to pay fines. In most cases their people are then liable. The latter therefore keep in harness the sick person who is inclined toward misdemeanors or crimes. Personally, too, if an ~~of guardian~~ does not succeed in curing him through magic remedies, he is tied to a tree at some distance from the kraal, to be devoured by predatory animals.

/587 cont./

428 Unknown in penal law are an aggravated death penalty, for example, death by fire, the principle of an eye for an eye, the view that the perpetrator must pay with the body part with which he has sinned, as well as symbolism, imprisonment, enslavement, a public monetary fine besides the composition, public monetary fines in general, a right of pardon.

• 429 There still remains to be pointed out one penal decree, which, 599 however, exists only for warriors. That the calling and way of life of the warriors, who are impressed primarily by brute strength and force, are not suitable for preventing rowdiness is obvious and is shown by the frequent, more or less rough brawls among them. Insofar as they were useful for promoting personal courage, they are not punished; for those connected with bodily injury what was said above applies. For the brawls a stick or a club is used as a weapon and the shield for display. In order to force the opponent to leave himself open, one directs a blow on the left lower arm holding the shield, and, to be sure, not inhumanly so violently that it is destroyed. Now, if a warrior has already inflicted broken bones on the opponent several times, especially in the manner just described, all the warriors, under the leadership of their ol elgevenant, gather together and announce to him that he will be outlawed if he once more /588/ engages in a brawl; if the one warned violates this prohibition, every warrior of the kraal is justified to killing him.

430 The legal proceedings are the same in civil and penal cases; 431 there is only one court for the people of a district. For the 432 warriors this is the speaker (ol elgevenani) for the older married men 433 as elders, respected, i.e., wealthy, men chosen each time by the persons concerned to settle the particular case presented. In controversial matters between warriors of different kraals or, which is usually the same thing, of different areas, the speakers concerned jointly confer and decide, either alone or, if they do not reach a definite decision, with the advice of an ol oonyoi, whose voice is then decisive. In disputes among married men of different areas a mixed council of elders decides. The ol oiboni may be regarded as a court of review, who, however, is called upon only in those 434 cases which concern the commonweal. There are civil proceedings

/391 cont./

Women are also entitled to make a complaint. Evidence presented by witnesses is valid only to the extent that the persons associated for the proceedings wish to be convinced by it.

The crime of sorcery is only rarely dealt with in a judicial assembly. For the most part the one bewitched, after he has learned from an nǂoriki the cause of the bewitchment, prefers to induce the latter, through gifts, to bewitch him healthy again. Thereupon the two conclude friendship /391/ or, however -- and this not infrequently happens -- the bewitched one now kills his opponent, and, to be sure, without inviting blood revenge upon himself because of it.

There are no secret societies for the purpose of legal actualization or for other purposes. Nor even a belief that the dead person will reveal the murderer to a dream six witnesses. The Ideal do not live with other peoples in such a relationship that the latter could demand or request expiation for murder or some other crime or misdemeanor committed by a Ideal on a non-Ideal. In this case, therefore, the dead remains unexpiated, whereas the Ideal as a rule practice retaliation if the dead was committed on one of their people. Whether or not the murder committed on an Ideal or an ǂi Kxoll by a Ideal is expiated depends in each case on the greater or lesser degree of friendly relations that exist between the communities of the murderer and the one murdered. In most cases expiation does not take place, whereas if the injured one is a Ideal, his fellow tribesmen will answer with war.